

ORDINANCE NUMBER 17-03

AN ORDINANCE ESTABLISHING AND REGULATING UNSIGHTLY AND UNSANITARY CONDITIONS; DECLARING NUISANCES; PROVIDING CIVIL AND CRIMINAL PENALTIES; PROVIDING FOR THE CONDEMNATION AND REMOVAL OF HOUSES, BUILDINGS AND STRUCTURES CONSTITUTING A NUISANCE; PROVIDING FOR A LIEN ON THE PROPERTY PROVIDING A PENALTY; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City Council values and desires to uphold the health, safety and welfare of the constituents of the City of East Camden; and

WHEREAS, the City Council values the health, safety and beautification efforts of the City of East Camden and its constituents; and

WHEREAS, the City Council is concerned about the employment rate, industrial recruitment and expansion, and the moral of its constituents; and

WHEREAS, the City Council finds that health, safety, welfare and beautification are concerns to its constituents and to industrial prospects.

NOW, THEREFORE, BE AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAST CAMDEN, ARKANSAS, THAT:

ARTICLE I. NUISANCES IN GENERAL

SECTION 1. Prohibited generally; abatement.

(a)

It shall be unlawful for any person having supervision or control of any lot, tract, parcel of land or portion thereof, within the corporate limits of the city to suffer or permit any of the following:

(1)

Grass, weeds, or any other plant that is not cultivated, to grow to a height greater than ten (10) inches on an individual lot, tract, parcel, or to grow in rank profusion upon the premises or in, along upon, or across the abutting sidewalk, parkway or alley.

(2)

Solid or liquid household, yard, commercial, industrial, construction or demolition waste, including but not limited to, rubbish, trash, brush and litter, whether dumped, spilled, burned or abandoned; dead trees; building materials; openly stored appliances or furniture; stagnant pools of water or vessels in which water might accumulate where mosquitoes or other insects may breed; or any other objectionable, unsightly, unsanitary or unsafe matter of whatever nature to be present upon any lot or parcel of land, including in or along a stream or drainage way and any adjacent right-of-way or alley, with the following exceptions:

a.

Building materials may only be stored openly on the premises if they are covered and not deteriorated so as to be unusable for their ordinary purpose; stored at least eighteen (18) inches off the ground; and are so stored in conjunction with an active building permit, a project on said premises not requiring a building permit, or a business enterprise that operates under a current, exhibited privilege license.

b.

No liquid or solid shall be placed in or along any stream or drainage way and no otherwise illegal dumping of any waste, furniture, appliances, or building materials shall be allowed on any parcel of land, including all adjacent rights-of-way and alleys, unless required permits have been obtained.

c.

Open storage of appliances or furniture shall only be permitted where such storage is in connection with an appliance sales or service business that is operated under a current and exhibited privilege license and located on a properly zoned parcel and if all doors, latches and locks are removed or made inoperable in a manner to ensure the safety of all citizens.

(3)

The open storage of an abandoned automobile unless such storage is in connection with an automotive sales or repair business enterprise which operates under a duly licensed and exhibited privilege license and located on a properly zoned parcel. In this subsection "abandoned automobile" means any motor vehicle or

part thereof that is in a state of disrepair or incapable of being moved under its own power.

(4)

Trees, shrubs, bushes or any other plant or object impeding the flow of a public right-of-way or pedestrian traffic on any sidewalk, or in any other manner causing an unauthorized obstruction of the public enjoyment of a sidewalk or public right-of-way.

(5)

Any actor condition constituting a nuisance under the Arkansas Code Annotated, or common law.

(b)

The occupant or owner of each residential dwelling or business shall provide an approved container with tight-fitting cover for the holding and storage of garbage. The container shall be placed at a point on the premises where the garbage collector can conveniently have access to same. Approved garbage containers shall have handles suitable as aids for lifting the container.

(c)

Whenever a city employee designated by the mayor or his duly authorized agent or representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, he shall give notice of such alleged violation to the person responsible therefor, that such alleged violation shall constitute a nuisance. Such notice shall:

(1)

Be in writing.

(2)

Include a statement of the reasons why it is being issued, and the section of the Code that is alleged to be in violation.

(3)

Allow no more than seven (7) days for performance of any act the notice requires to be completed.

(4)

State that if the alleged violation is not corrected within the time set forth in the notice, the city employee designated by the mayor or his duly authorized agent or representative shall institute legal proceedings, charging the person with a violation of this section.

(5)

State that no further notice, warning or grace period will be given for any repeat alleged violation of this section within the remainder of the same calendar year.

(d)

With the exception noted in subsection (e) below, the person responsible for the violation shall be notified by one (1) or more of the following methods:

(1)

By delivery to the owner, agent or responsible party, personally.

(2)

By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and discretion.

(3)

By depositing the notice in the United States mail, addressed to the owner, agent or responsible party, at his last known address by certified mail, postage prepaid thereon.

(4)

By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice in a conspicuous place on the premises alleged to be in violation.

(5)

By depositing the notice in the United States mail, addressed to the owner, agent or responsible party, at his last known address by regular mail with a notarized affidavit stating date mailed, postage prepaid thereon. This form of notice shall only be used in conjunction with one (1) or more other forms of notice permitted by this subsection.

(e)

No further notice, warning, or grace period is required to be given for any alleged repeat violation of the same section within the remainder of the same calendar year.

(f)

Violation of the provisions of this section may be prosecuted by the issuance of a criminal information or by the issuance of a citation by a law enforcement officer.

Section 2. Trash, weeds, etc.

(a)

The head of the city department designated by the mayor may order the owner of any real property within the city to cut weeds, remove garbage, rubbish and other unsightly and unsanitary articles and things that may be upon the property; and to eliminate, fill up or remove stagnant pools of water or any unsanitary thing, place or condition which becomes a breeding place for mosquitoes, flies or germs harmful to the health of the community. The order shall be in writing and shall be issued to the owner of the real property involved. If the owner of any real property is unknown or his whereabouts is not known or he is a non-resident of this state, then a copy of the written notice shall be posted upon the premises in some prominent place.

(b)

If the owner of any real property within the city neglects or refuses to remove, abate or eliminate any such condition as provided for in subsection (a) of this section after having been given a minimum of seven (7) days' notice in writing by regular mail and certified mail, return receipt requested, to do so, the city department designated by the mayor may do whatever may be necessary to correct the condition and charge the cost thereof to the owner of the real property. The city shall have a lien against such property for the cost.

(c)

The lien may be enforced and collected at any time within ten (10) years after a lien has been filed in either one of the following manners:

(1)

By an action for foreclosure in circuit court; or

(2)

The amount of the lien may be determined at a hearing before the board of directors held after thirty (30) days' written notice by certified mail, return receipt requested, to the owner of the property if the name and address of the owner are known and to the lienholders of record. If the name of the owner cannot be determined, the public hearing may be held only after publication of notice of the hearing in a newspaper having a bona fide circulation in the county for one (1) insertion a week for four (4) consecutive weeks. The amount so determined at the public

hearing, plus ten (10) percent penalty for collection, shall be certified by the board of directors to the county tax collector to be placed on the tax books and collected accordingly. The amount, less three (3) percent, shall be paid to the city by the county tax collector.

(d)

The determination of the board of directors that confirms the amount of the lien is subject to appeal by the owner of the property, or by any lienholder of record, in the circuit court filed within forty-five (45) days after the determination is made. If the owner or lienholder fails to appeal in this time, the lien amount is fully perfected and not subject to further contest or appeal. The city shall file its lien with the circuit clerk no later than sixty (60) days after the board of directors confirms the lien amount or, if the lien is appealed, within sixty (60) days after the city prevails on appeal.

ARTICLE II. - UNSAFE BUILDINGS, STRUCTURES, MANUFACTURED HOMES AND MOBILE HOMES

Section 3. Violation.

It shall be a violation of this article for any owner, as defined herein, to permit, allow to remain, fail to take action to demolish, remove or correct, or fail to board and secure any dangerous, dilapidated, substandard or unsafe building, structure, manufactured home or mobile home as directed by the city pursuant to Section 7 hereinbelow.

Section 4. Jurisdiction.

In every case in which any person shall be prosecuted and found guilty of a violation of any of the provisions of this chapter or any other ordinance of the city in relation to nuisances, it shall be competent for, and shall be the duty of the municipal court, if the circumstances of the case require it, to make an order requiring the removal, abatement or discontinuance of the nuisance shown in such case, and to order and direct that if within a reasonable and given time therein named, the same shall not be removed, abated or discontinued by the person or persons proceeded against therefor,

such nuisance shall be abated or removed by the building official with such assistance as he may deem necessary to call to his aid for that purpose, and in such case the person proceeded against shall be responsible for all the costs and expenses incurred in the removal or abatement of such nuisance by the building official.

Section 5. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means the Mayor or person designated by the Mayor to be responsible for enforcing the provisions of this article.

Dangerous means, with reference to a building, structure, manufactured home or mobile home, that it:

- (1)
Is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public;
- (2)
Lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public;
- (3)
Is a dilapidated building, structure, manufactured home or mobile home;
- (4)
Is a substandard building, structure, manufactured home or mobile home; or
- (5)
Is an unsafe building, structure, manufactured home or mobile home.

Dilapidated building or structure means a building, structure, dwelling, dwelling unit, multiple dwelling, apartment, apartment house, or a garage, shed or other accessory structure, which by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, is unsafe,

unsanitary, or that constitutes a fire hazard, or that is otherwise dangerous to human life and is no longer adequate for the purpose for which it was originally intended.

Owner means the holder of the title in fee simple and any person in whose name tax bills on property are submitted. "Owner" also means any person who, alone or jointly or severally with others:

(1)

Has legal title to any building or structure, with or without accompanying actual possession thereof; or

(2)

Has charge, care or control of any building or structure, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, assignee of rents, lessee, or other person in control of a building or structure, or his duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Substandard dwelling or structure means a dwelling unit, multiple dwelling, apartment, apartment house or any other space used or intended to be used as a habitable living space in any building or structure that does not meet the requirements of the building code as adopted in East Camden.

Substandard manufactured home or mobile home means a manufactured home or mobile home that is maintained as a substandard MH-unit, contrary to the prohibitions in the building code as adopted in East Camden.

Unsafe building, structure, manufactured home or mobile home means a building, structure, manufactured home, mobile home, dwelling, apartment house, rooming house or building or structure used as a dwelling, that is unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to its existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

Section 6. Penalty for violations.

(a)

In this section "violation of this Code" means:

(1)

Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

(2)

Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or

(3)

Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b)

In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c)

Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed five hundred dollars (\$500.00) for each day that the same is unlawfully continued.

(d)

If a violation of this Code is also a misdemeanor under state law, the penalty for the violation shall be as prescribed by state law for the state offense.

(e)

The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(f)

Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable

relief. The imposition of a "penalty" however does not prevent the simultaneous granting of equitable relief in appropriate cases.

Section 7. Abatement notice, notice to vacate and time to repair.

(a)

Whenever the building official declares a building, structure, manufactured home or mobile home to be dangerous or unfit for human habitation, the official shall give notice of such declaration to the owner by placarding the building, structure, manufactured home or mobile home.

(b)

Service of the written notice shall be sent by regular mail and by certified mail, return receipt requested. Additional notice may be provided by delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a responsible adult.

(c)

The owner shall initiate repairs within fifteen (15) days of the notice and shall complete repairs within ninety (90) days of the notice.

Section 8. Abatement by city.

(a)

If the owner, agent or person in control of property subject to a notice served pursuant to this article cannot be found within the stated time limit, or if the owner, agent, or person in control fails, neglects, or refuses to comply with the notice to repair, rehabilitate, secure, or demolish and remove, or failure to remove the building, structure, manufactured home or mobile home, the building official, after having ascertained the cost, may cause such building, structure, manufactured home or mobile home to be abated, demolished, or secured as provided for by order of the city board of directors. The building official shall require that the building, structure, manufactured home or mobile home remain vacant during the pendency of the action or until the nuisance is abated.

(b)

Expenses incurred by the city under this section shall be charged to the owner of the property involved and shall be collected in the manner as provided in Section 2 hereinabove as applicable, or by any other method permitted by law.

Section 9. Vacating of building, structure, manufactured home or mobile home.

(a)

Any building, structure, manufactured home or mobile home that has been ordered to be vacated under this article shall be vacated within thirty (30) days after notice to do so has been given by the building official to the owner or occupant of the building, structure, manufactured home or mobile home.

(b)

No building, structure, manufactured home, or mobile home that has been ordered vacated pursuant to this article and so placarded shall be used for human habitation without approval of the building official and the unfit placard is removed by the building official. The building official shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.

Section 10. Removal of placard notice.

No person shall deface or remove a placard posted pursuant to this article unless authorized to do so.

Section 11. Emergency abatement.

Any building, wall, or party wall or any portion thereof, chimney, or other structure, manufactured home, or mobile home in the city that from fire, excavation, improper erection or construction, or from any other cause, which at any time becomes unsafe or dangerous to life and limb, shall be razed and removed, or made secure by the building official, if within twenty-four (24) hours from the time of service of notice the owner of record fails to commence rehabilitation or removal of the same and if

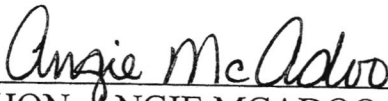
within seventy-two (72) hours, the owner of record shall fail to complete the rehabilitation or removal.

ARTICLE III. EMERGENCY DECLARED

Section 12. Emergency declared.

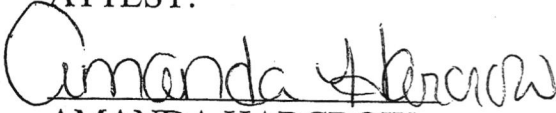
This ordinance is necessary to protect the health, safety, and welfare of the residents of the City of East Camden, Arkansas. Therefore, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon the passage and approval hereof by the City Council of the City of East Camden, Arkansas.

Passed and approved this 22nd day of June, 2017.



HON. ANGIE MCADOO
MAYOR

ATTEST:



AMANDA HARCROW
CITY RECORDER